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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/689,172

10/20/2003

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32692 7590 01/27/2009
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EXAMINER

DESAI, ANISH P

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

01/27/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DUANE A. LUNSFORD and JIMMIE RAE BARAN, JR.

Application No. 10/689,172
Technology Center 1700

Mailed: January 26, 2009

Before Deborah L. Perry, Supervisory Paralegal Specialist.

Perry, Supervisory Paralegal Specialist

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 12, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

BACKGROUND

On April 30, 2007, the Board of Patent Appeals and Interferences issued and mailed an Order Remanding To the Examiner. The Remand cited deficiencies in Appeal Brief filed May 8, 2006, where evidence was missing from the Evidence Appendix (European Publication (EP'756)). Further, the Remand stated that the Examiner's Answer mailed July 13, 2006, did not address the Declaration of Robert G. Murray in the Answer and the supporting reference European Publication (EP'756). It further addressed the Reply Brief filed July 20, 2006, wherein the Examiner did not address Appellant's arguments regarding the Examiner's oversight and failure to fully address Appellants' arguments, allegedly supported by the EP'756 reference. Finally, the Remand directed the Examiner to advise Appellant of the defective Appeal Brief and upon receipt of the missing evidence for the Examiner to consider Appellants' arguments and the European Publication (EP'756).

On May 10, 2007, the Examiner issued and mailed a Notification of Non-Compliant Appeal Brief.

On June 5, 2007, Appellant filed a Supplemental Appeal Brief providing a copy of the European Publication (EP'756).

On September 4, 2007, the Examiner issued and mailed a Supplemental Examiner's Answer, wherein the Examiner discussed the European Publication (EP'756) and reference and stated that all prior rejections based in whole or in part on the European Publication (EP'756) had been withdrawn by the Examiner in the Advisory Action dated January 6, 2006. The Examiner further stated that it was still his firm conviction that Lang et al (EP'756) does not teach away from the claimed invention.

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However, this Supplemental Answer fails to include Director (or Director Designee) signature as required in accordance with MPEP section 1207.05.

PRIOR ORDER RETURNING UNDOCKETED APPEAL

On September 12, 2007, an Order Returning Undocketed Appeal was issued and mailed requiring that a Director or QAS signature was required on the Supplemental Examiner's Answer.

To date, the Order Returning dated September 12, 2007, has not been complied with, as no Director or QAS signature has been provided on the Supplemental Examiner's Answer.

Accordingly, correction is still required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) obtain the Director and/or QAS signature on the Supplemental Examiner's Answer dated September 4, 2007; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP

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